

AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1285**

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**Introduced by Assembly Member Parra**

February 23, 2007

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An act ~~relating to taxation~~ *to amend Sections 17052.12 and 23609 of, and to add and repeal Sections 17052.13 and 23609.1 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1285, as amended, Parra. Taxation: ~~the California Clean Equipment and Technology Investment Initiative of 2007: credits: research and development.~~

*The Personal Income Tax Law and the Corporation Tax Law, by reference to a specified federal statute, allow a credit against taxes imposed by those laws for increasing research expenses, as defined. In general, the amount of the credit under both laws is equal to 15% of the excess of the qualified research expenses, as defined, for the taxable year over the base amount, as defined, and, in addition, for purposes of the Corporation Tax Law, 24% of the basic research payments, as defined. A taxpayer may elect an alternative incremental credit for increasing research expenses in modified conformity to federal income tax laws.*

*This bill would provide complete conformity to the research credit and the alternative incremental credit allowed by those federal income tax laws, but only for the amount paid or incurred by a taxpayer in connection with the qualified research, as specified, to develop technologies that will reduce greenhouse gas emissions, as defined.*

*This bill would take effect immediately as a tax levy.*

~~The Personal Income Tax, the Corporation Tax, and the Sales and Use Tax laws authorize various credits, deductions and exemptions from the taxes imposed by those laws.~~

~~This bill would declare the intent of the Legislature to enact the California Clean Equipment and Technology Investment Initiative of 2007, for taxable years beginning on or after January 1, 2008 and before January 1, 2014, to exempt from the sales and use taxes the purchases of specified manufacturing equipment and to allow a deduction from, or credit against, the taxes imposed by the income and corporation tax laws for research and development expenses of new products and technology designed, or used for, the purpose of reducing greenhouse gas emissions, as provided.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 17052.12 of the Revenue and Taxation
- 2     Code is amended to read:
- 3     17052.12. For each taxable year beginning on or after January
- 4     1, 1987, there shall be allowed as a credit against the “net tax” (as
- 5     defined by Section 17039) for the taxable year an amount
- 6     determined in accordance with Section 41 of the Internal Revenue
- 7     Code, except as follows:
- 8     (a) For each taxable year beginning before January 1, 1997, the
- 9     reference to “20 percent” in Section 41(a)(1) of the Internal
- 10    Revenue Code is modified to read “8 percent.”
- 11    (b) (1) For each taxable year beginning on or after January 1,
- 12    1997, and before January 1, 1999, the reference to “20 percent”
- 13    in Section 41(a)(1) of the Internal Revenue Code is modified to
- 14    read “11 percent.”
- 15    (2) For each taxable year beginning on or after January 1, 1999,
- 16    and before January 1, 2000, the reference to “20 percent” in Section
- 17    41(a)(1) of the Internal Revenue Code is modified to read “12
- 18    percent.”
- 19    (3) For each taxable year beginning on or after January 1, 2000,
- 20    the reference to “20 percent” in Section 41(a)(1) of the Internal
- 21    Revenue Code is modified to read “15 percent.”

1 (c) Section 41(a)(2) of the Internal Revenue Code, relating to  
2 basic research payments, shall not apply.

3 (d) “Qualified research” shall include only research conducted  
4 in California.

5 (e) In the case where the credit allowed under this section  
6 exceeds the “net tax,” the excess may be carried over to reduce  
7 the “net tax” in the following year, and succeeding years if  
8 necessary, until the credit has been exhausted.

9 (f) (1) With respect to any expense paid or incurred after the  
10 operative date of Section 6378, Section 41(b)(1) of the Internal  
11 Revenue Code is modified to exclude from the definition of  
12 “qualified research expense” any amount paid or incurred for  
13 tangible personal property that is eligible for the exemption from  
14 sales or use tax provided by Section 6378.

15 (2) For each taxable year beginning on or after January 1, 1998,  
16 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the  
17 Internal Revenue Code, relating to contract research expenses, is  
18 modified to read “this part or Part 11 (commencing with Section  
19 23001).”

20 (g) (1) For each taxable year beginning on or after January 1,  
21 2000:

22 (A) The reference to “2.65 percent” in Section 41(c)(4)(A)(i)  
23 of the Internal Revenue Code is modified to read “one and  
24 forty-nine hundredths of one percent.”

25 (B) The reference to “3.2 percent” in Section 41(c)(4)(A)(ii) of  
26 the Internal Revenue Code is modified to read “one and  
27 ninety-eight hundredths of one percent.”

28 (C) The reference to “3.75 percent” in Section 41(c)(4)(A)(iii)  
29 of the Internal Revenue Code is modified to read “two and  
30 forty-eight hundredths of one percent.”

31 (2) Section 41(c)(4)(B) shall not apply and in lieu thereof an  
32 election under Section 41(c)(4)(A) of the Internal Revenue Code  
33 may be made for any taxable year of the taxpayer beginning on or  
34 after January 1, 1998. That election shall apply to the taxable year  
35 for which made and all succeeding taxable years unless revoked  
36 with the consent of the Franchise Tax Board.

37 (3) Section 41(c)(6) of the Internal Revenue Code, relating to  
38 gross receipts, is modified to take into account only those gross  
39 receipts from the sale of property held primarily for sale to  
40 customers in the ordinary course of the taxpayer’s trade or business

1 that is delivered or shipped to a purchaser within this state,  
2 regardless of f.o.b. point or any other condition of the sale.

3 (h) Section 41(h) of the Internal Revenue Code, relating to  
4 termination, shall not apply.

5 (i) Section 41(g) of the Internal Revenue Code, relating to  
6 special rule for passthrough of credit, is modified by each of the  
7 following:

8 (1) The last sentence shall not apply.

9 (2) If the amount determined under Section 41(a) of the Internal  
10 Revenue Code for any taxable year exceeds the limitation of  
11 Section 41(g) of the Internal Revenue Code, that amount may be  
12 carried over to other taxable years under the rules of subdivision  
13 (e); except that the limitation of Section 41(g) of the Internal  
14 Revenue Code shall be taken into account in each subsequent  
15 taxable year.

16 (j) *For each taxable year beginning on or after January 1, 2008,*  
17 *and before January 1, 2014, this section shall not apply to qualified*  
18 *research activities conducted by a taxpayer for the purpose of*  
19 *developing technologies to reduce gas emissions, as provided for*  
20 *in Section 17052.13.*

21 *SEC. 2. Section 17052.13 is added to the Revenue and Taxation*  
22 *Code, to read:*

23 *17052.13. (a) For each taxable year beginning on or after*  
24 *January 1, 2008, and before January 1, 2014, there shall be*  
25 *allowed as a credit against the “net tax,” as defined by Section*  
26 *17039, an amount equal to the amount, paid or incurred by a*  
27 *taxpayer in conducting qualified research, for the purpose of*  
28 *developing technologies to reduce gas emissions as determined in*  
29 *accordance with Section 41 of the Internal Revenue Code, except*  
30 *as otherwise provided.*

31 *(b) For purposes of this section, both of the following apply:*

32 *(1) “Qualified research” means qualified research that is*  
33 *conducted in this state and is dedicated to the development of*  
34 *technologies intended to reduce greenhouse gas emissions, as*  
35 *defined in subdivision (g) of Section 38505 of the Health and Safety*  
36 *Code.*

37 *(2) The reference to “Section 501(a)” in Section 41(b)(3)(C)*  
38 *of the Internal Revenue Code, relating to contract research*  
39 *expenses, is modified to read “this part or Part 11 (commencing*  
40 *with Section 23001).”*

1     (c) *The provisions of Section 41(c)(4) of the Internal Revenue*  
2 *Code, relating to the election of an alternate incremental credit,*  
3 *apply, except the reference to the “Secretary” in Section*  
4 *41(c)(4)(B) of the Internal Revenue Code shall be modified to,*  
5 *instead, refer to the “Franchise Tax Board.”*

6     (d) *Section 41(c)(7) of the Internal Revenue Code, relating to*  
7 *gross receipts, is modified to take into account only those gross*  
8 *receipts from the sale of property held primarily for sale to*  
9 *customers in the ordinary course of the taxpayer’s trade or*  
10 *business that is delivered or shipped to a purchase within this*  
11 *state, regardless of freight on board (f.o.b.) point or any other*  
12 *condition of the sale.*

13     (e) *Section 41(h) of the Internal Revenue Code, relating to*  
14 *termination, shall not apply.*

15     (f) *Section 41(g) of the Internal Revenue Code, relating to*  
16 *special rule for passthrough of credit, is modified by each of the*  
17 *following:*

18         (1) *The last sentence shall not apply.*

19         (2) *If the amount determined under Section 41(a) of the Internal*  
20 *Revenue Code for any taxable year exceeds the limitation of Section*  
21 *41(g) of the Internal Revenue Code, that amount may be carried*  
22 *over to other taxable years under the rules of subdivision (g),*  
23 *except that the limitation of Section 41(g) of the Internal Revenue*  
24 *Code shall be taken into account in each subsequent taxable year.*

25         (g) *In the case where the credit allowed under this section*  
26 *exceeds the “net tax,” the excess may be carried over to reduce*  
27 *the “net tax” in the following year, and the succeeding years if*  
28 *necessary, until the credit has been exhausted.*

29         (h) *This section shall remain in effect only until January 1, 2014,*  
30 *and as of that date, is repealed. However, any unused credit may*  
31 *be carried over after the repeal date in accordance with subdivision*  
32 *(g).*

33     SEC. 3. *Section 23609 of the Revenue and Taxation Code is*  
34 *amended to read:*

35     23609. *For each taxable year beginning on or after January 1,*  
36 *1987, there shall be allowed as a credit against the “tax” (as defined*  
37 *by Section 23036) an amount determined in accordance with*  
38 *Section 41 of the Internal Revenue Code, except as follows:*

39         (a) *For each taxable year beginning before January 1, 1997,*  
40 *both of the following modifications shall apply:*

1 (1) The reference to “20 percent” in Section 41(a)(1) of the  
2 Internal Revenue Code is modified to read “8 percent.”

3 (2) The reference to “20 percent” in Section 41(a)(2) of the  
4 Internal Revenue Code is modified to read “12 percent.”

5 (b) (1) For each taxable year beginning on or after January 1,  
6 1997, and before January 1, 1999, both of the following  
7 modifications shall apply:

8 (A) The reference to “20 percent” in Section 41(a)(1) of the  
9 Internal Revenue Code is modified to read “11 percent.”

10 (B) The reference to “20 percent” in Section 41(a)(2) of the  
11 Internal Revenue Code is modified to read “24 percent.”

12 (2) For each taxable year beginning on or after January 1, 1999,  
13 and before January 1, 2000, both of the following shall apply:

14 (A) The reference to “20 percent” in Section 41(a)(1) of the  
15 Internal Revenue Code is modified to read “12 percent.”

16 (B) The reference to “20 percent” in Section 41(a)(2) of the  
17 Internal Revenue Code is modified to read “24 percent.”

18 (3) For each taxable year beginning on or after January 1, 2000,  
19 both of the following shall apply:

20 (A) The reference to “20 percent” in Section 41(a)(1) of the  
21 Internal Revenue Code is modified to read “15 percent.”

22 (B) The reference to “20 percent” in Section 41(a)(2) of the  
23 Internal Revenue Code is modified to read “24 percent.”

24 (c) (1) With respect to any expense paid or incurred after the  
25 operative date of Section 6378, Section 41(b)(1) of the Internal  
26 Revenue Code is modified to exclude from the definition of  
27 “qualified research expense” any amount paid or incurred for  
28 tangible personal property that is eligible for the exemption from  
29 sales or use tax provided by Section 6378.

30 (2) “Qualified research” and “basic research” shall include only  
31 research conducted in California.

32 (d) The provisions of Section 41(e)(7)(A) of the Internal  
33 Revenue Code, shall be modified so that “basic research,” for  
34 purposes of this section, includes any basic or applied research  
35 including scientific inquiry or original investigation for the  
36 advancement of scientific or engineering knowledge or the  
37 improved effectiveness of commercial products, except that the  
38 term does not include any of the following:

39 (1) Basic research conducted outside California.

40 (2) Basic research in the social sciences, arts, or humanities.

1 (3) Basic research for the purpose of improving a commercial  
2 product if the improvements relate to style, taste, cosmetic, or  
3 seasonal design factors.

4 (4) Any expenditure paid or incurred for the purpose of  
5 ascertaining the existence, location, extent, or quality of any deposit  
6 of ore or other mineral (including oil and gas).

7 (e) (1) In the case of a taxpayer engaged in any  
8 biopharmaceutical research activities that are described in codes  
9 2833 to 2836, inclusive, or any research activities that are described  
10 in codes 3826, 3829, or 3841 to 3845, inclusive, of the Standard  
11 Industrial Classification (SIC) Manual published by the United  
12 States Office of Management and Budget, 1987 edition, or any  
13 other biotechnology research and development activities, the  
14 provisions of Section 41(e)(6) of the Internal Revenue Code shall  
15 be modified to include both of the following:

16 (A) A qualified organization as described in Section  
17 170(b)(1)(A)(iii) of the Internal Revenue Code and owned by an  
18 institution of higher education as described in Section 3304(f) of  
19 the Internal Revenue Code.

20 (B) A charitable research hospital owned by an organization  
21 that is described in Section 501(c)(3) of the Internal Revenue Code,  
22 is exempt from taxation under Section 501(a) of the Internal  
23 Revenue Code, is not a private foundation, is designated a  
24 “specialized laboratory cancer center,” and has received Clinical  
25 Cancer Research Center status from the National Cancer Institute.

26 (2) For purposes of this subdivision:

27 (A) “Biopharmaceutical research activities” means those  
28 activities that use organisms or materials derived from organisms,  
29 and their cellular, subcellular, or molecular components, in order  
30 to provide pharmaceutical products for human or animal  
31 therapeutics and diagnostics. Biopharmaceutical activities make  
32 use of living organisms to make commercial products, as opposed  
33 to pharmaceutical activities that make use of chemical compounds  
34 to produce commercial products.

35 (B) “Other biotechnology research and development activities”  
36 means research and development activities consisting of the  
37 application of recombinant DNA technology to produce  
38 commercial products, as well as research and development  
39 activities regarding pharmaceutical delivery systems designed to

1 provide a measure of control over the rate, duration, and site of  
2 pharmaceutical delivery.

3 (f) In the case where the credit allowed by this section exceeds  
4 the “tax,” the excess may be carried over to reduce the “tax” in  
5 the following year, and succeeding years if necessary, until the  
6 credit has been exhausted.

7 (g) For each taxable year beginning on or after January 1, 1998,  
8 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the  
9 Internal Revenue Code, relating to contract research expenses, is  
10 modified to read “this part or Part 10 (commencing with Section  
11 17001).”

12 (h) (1) For each taxable year beginning on or after January 1,  
13 2000:

14 (A) The reference to “2.65 percent” in Section 41(c)(4)(A)(i)  
15 of the Internal Revenue Code is modified to read “one and  
16 forty-nine hundredths of one percent.”

17 (B) The reference to “3.2 percent” in Section 41(c)(4)(A)(ii) of  
18 the Internal Revenue Code is modified to read “one and  
19 ninety-eight hundredths of one percent.”

20 (C) The reference to “3.75 percent” in Section 41(c)(4)(A)(iii)  
21 of the Internal Revenue Code is modified to read “two and  
22 forty-eight hundredths of one percent.”

23 (2) Section 41(c)(4)(B) shall not apply and in lieu thereof an  
24 election under Section 41(c)(4)(A) of the Internal Revenue Code  
25 may be made for any taxable year of the taxpayer beginning on or  
26 after January 1, 1998. That election shall apply to the taxable year  
27 for which made and all succeeding taxable years unless revoked  
28 with the consent of the Franchise Tax Board.

29 (3) Section 41(c)(6) of the Internal Revenue Code, relating to  
30 gross receipts, is modified to take into account only those gross  
31 receipts from the sale of property held primarily for sale to  
32 customers in the ordinary course of the taxpayer’s trade or business  
33 that is delivered or shipped to a purchaser within this state,  
34 regardless of f.o.b. point or any other condition of the sale.

35 (i) Section 41(h) of the Internal Revenue Code, relating to  
36 termination, shall not apply.

37 (j) Section 41(g) of the Internal Revenue Code, relating to  
38 special rule for passthrough of credit, is modified by each of the  
39 following:

40 (1) The last sentence shall not apply.



(2) If the amount determined under Section 41(a) of the Internal Revenue Code for any taxable year exceeds the limitation of Section 41(g) of the Internal Revenue Code, that amount may be carried over to other taxable years under the rules of subdivision (f), except that the limitation of Section 41(g) of the Internal Revenue Code shall be taken into account in each subsequent taxable year.

*(k) For each taxable year beginning on or after January 1, 2008, and before January 1, 2014, this section shall not apply to qualified research activities conducted by a taxpayer for the purpose of developing technologies to reduce gas emissions, as provided for in Section 23609.1.*

*SEC. 4. Section 23609.1 is added to the Revenue and Taxation Code, to read:*

*23609.1. (a) For each taxable year beginning on or after January 1, 2008, and before January 1, 2014, there shall be allowed as a credit against the "tax," as defined by Section 23036, an amount equal to the amount paid or incurred by a taxpayer in conducting qualified research, for the purpose of developing technologies to reduce gas as emissions determined in accordance with Section 41 of the Internal Revenue Code, except as otherwise provided.*

*(b) For purposes of this section, all of the following apply:*

*(1) "Qualified research" means qualified research, as defined in Section 41(b) of the Internal Revenue Code, that is conducted in this state and is dedicated to the development of technologies intended to reduce greenhouse gas emissions, as defined in subdivision (g) of Section 38505 of the Health and Safety Code.*

*(2) "Basic research" shall include only research conducted in this state.*

*(3) The reference to "Section 501(a)" in Section 41(b)(3)(C) of the Internal Revenue Code, relating to contract research expenses, is modified to read "this part or Part 11 (commencing with Section 23001)."*

*(c) The provisions of Section 41(c)(4) of the Internal Revenue Code, relating to the election of an alternate incremental credit, apply, except the reference to the "Secretary" in Section 41(c)(4)(B) of the Internal Revenue Code shall be modified to, instead, refer to the "Franchise Tax Board."*

(d) Section 41(c)(7) of the Internal Revenue Code, relating to gross receipts, is modified to take into account only those gross receipts from the sale of property held primarily for sale to customers in the ordinary course of the taxpayer's trade or business that is delivered or shipped to a purchase within this state, regardless of freight on board (f.o.b.) point or any other condition of the sale.

(e) Section 41(h) of the Internal Revenue Code, relating to termination, shall not apply.

(f) Section 41(g) of the Internal Revenue Code, relating to special rule for passthrough of credit, is modified by each of the following:

(1) The last sentence shall not apply.

(2) If the amount determined under Section 41(a) of the Internal Revenue Code for any taxable year exceeds the limitation of Section 41(g) of the Internal Revenue Code, that amount may be carried over to other taxable years under the rules of subdivision (g), except that the limitation of Section 41(g) of the Internal Revenue Code shall be taken into account in each subsequent taxable year.

(g) In the case where the credit allowed under this section exceeds the "net tax," the excess may be carried over to reduce the "tax" in the following year, and the succeeding years if necessary, until the credit has been exhausted.

(h) This section shall remain in effect only until January 1, 2014, and as of that date, is repealed. However, any unused credit may be carried over after the repeal date in accordance with subdivision (g).

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

SECTION 1. ~~(a) It is the intent of the Legislature to enact the California Clean Equipment and Technology Investment Initiative of 2007, for taxable years beginning on or after January 1, 2008 and before January 1, 2014, to create all of the following:~~

~~(1) An exemption from the state sales and use taxes for purchases of manufacturing equipment used primarily, 50 percent or more, within this state to manufacture products that are designed, or may be used, for the purpose of reducing greenhouse gas emissions.~~

~~(2) An exemption from the state sales and use taxes for purchases of California-manufactured products that are designed,~~

1 ~~or may be used, for the purpose of reducing greenhouse gas~~  
2 ~~emissions and that will be used for commercial operations within~~  
3 ~~this state.~~

4 ~~(3) An exemption from the income and corporation taxes for~~  
5 ~~research and development expenses incurred in connection with~~  
6 ~~developing new products or technology, or improving existing~~  
7 ~~products or technology, that are designed, or may be used, for the~~  
8 ~~purpose of reducing greenhouse gas emissions.~~

9 ~~(b) The Legislature declares that the California Clean Equipment~~  
10 ~~and Technology Investment Initiative of 2007 is intended to~~  
11 ~~facilitate some companies' early efforts to reduce greenhouse gas~~  
12 ~~emissions far in advance of the 2020 deadline, set forth by Chapter~~  
13 ~~488 of the Statutes of 2006, and to encourage investments, job~~  
14 ~~growth, and overall economic development in manufacturing and~~  
15 ~~research of clean equipment and technology within this state.~~